



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,343	08/23/2004	Walter Otto Repple	752-06US	5920

23716 7590 02/25/2008
ANTHONY ASQUITH
28-461 COLUMBIA STREET WEST
WATERLOO, ON N2T 2P5
CANADA

EXAMINER

WEINSTEIN, LEONARD J

ART UNIT	PAPER NUMBER
----------	--------------

3746

MAIL DATE	DELIVERY MODE
-----------	---------------

02/25/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/505,343	Applicant(s) REPPLE ET AL.	
	Examiner LEONARD J. WEINSTEIN	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-31 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the amendment of October 10, 2007. In making the below rejections and/or objections the examiner has considered and addressed each of the applicant's arguments.
2. The examiner acknowledges the amendment to claim 31. Claim 32 has been canceled by applicant.

Election/Restrictions

3. Restriction is required under 35 U.S.C. 121 and 372.
This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

- I. Group 1, claim(s) 1-30, drawn to a coolant pump apparatus having the special technical feature of a set of swirl vanes, a radiator port, and a radiator port closer provided within a pump chamber.
 - II. Group 2, claim(s) 31, drawn to a coolant pump apparatus with the special technical feature of an impeller having two sets of blades wherein a first primary set of blades orientated in a primarily axial direction and a secondary set of blades orientated in a primarily radial direction.
4. There are no claims considered generic to groups 1 and 2. The inventions of group 1 and 2 have separate and distinct special technical features.

Art Unit: 3746

5. Applicant is advised that the response to this requirement to be complete must include an election of one of the above groups even if the requirement is traversed.

6. If a selection of Group 1 is made, the applicant is advised that a separate election will be required. With respect to the invention of group 1, the application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

- Species 1-A – The embodiment of figure 9
- Species 1-B – The embodiment of figure 5
- Species 1-C – The embodiment of figure 4
- Species 1-D – The embodiment of figure 5 in concert with the disclosure ¶0026 of the instant application
- Species 1-E – The embodiment of figure 8

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Art Unit: 3746

7. The claims are deemed to correspond to the species listed above in the following manner:

- Claims 1 and 4 read on Species 1-A
- Claims 1, 5-6, and 13-19 read on Species 1-B
- Claims 1, 9-10 read on Species 1-C
- Claims 1, 22-26 read on Species 1-D
- Claims 1, 26-28 read on Species 1-E

8. The following claim(s) are generic: claims 1-3, 7-8, 12, 25, 29, and 30.

9. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: Although claims listed in item 8 of this action are generic, independent claim 1 is not considered to be patentable and considered to be subject to a rejection on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. 6,887,046 in view of Arnold US 2002/0187061 A1.

The examiner notes the applicant's argument that the prior patent does not claim a set of swirl-vanes, a radiator-port, and a radiator-port-closer within a pump chamber. However Arnold teaches a similar pump structure used for a turbocharger including a pump provided in a fixed housing 12 having walls which define a pump chamber 24, a pump impeller provided within the pump chamber 24, a port 28, a port closer 34, a port closer driver (actuator not shown), and a set of swirl vanes 22, wherein a set of swirl vanes 22, a port 28, and a port closer 34 are located inside a pumping chamber 24. The special technical feature which applicant claims in the instant

Art Unit: 3746

application, which is not claimed in the prior patent, is an obvious feature of similar technology.

10. Applicant is advised that the response to this requirement to be complete must include and election of one the above species in the event that group 1 is selected, even if the requirement is traversed.

Response to Arguments

11. The examiner notes applicant's argument that claims 1 and 3-8 of the US patent do not claim the identical subject matter as claims 5, 13-18, and 32 of the instant application. The examiner notes that the applicant has moved a section of the limitations stated in claim 1 (col. 21 ll. 43-48) of the US patent into a dependent claim in the instant application with claim 3. Thus the applicant has effectively set forth limitations that are broader than the limitations of the "Foreign" application of which it claims priority under 35 U.S.C. 371. For this reason it was determined that claims 5, 13-18, and 32 were subject to statutory double patenting under 35 U.S.C. 101. In light of the applicant's arguments, the examiner agrees that claim 1 of the U.S. patent does not claim the limitations of claim 1 of the instant application wherein a set of swirl vanes, a radiator port, and a radiator port closer located inside a pump chamber. Claim 1 of each of the US patent and the instant application, claim substantially the same invention. As the application stands currently, claims 5, and 13-18 would be rejected under non-statutory obviousness double patenting in any subsequent office action on the merits.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEONARD J. WEINSTEIN whose telephone number is

Art Unit: 3746

(571)272-9961. The examiner can normally be reached on Monday - Thursday 7:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Karmer can be reached on (571) 272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devon C Kramer/
Supervisory Patent Examiner, Art Unit
3683

/Leonard J Weinstein/
Examiner, Art Unit 3746